



City of Albuquerque

Legislative File Number O-06-28 (version 1)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

Amending Section 14-16-4-4 ROA 1994 Clarifying Who Has Standing To File And Pursue Administrative Appeals Of Land Use Decisions And Who May Represent A Person Pursuing An Administrative Appeal Of A Land Use Decision, Requiring Appropriate Decorum And Correcting An Error

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE

Section 1. Section 14-16-4-4(A)(3) is amended to read as follows:

(3) Once an appeal is filed, no prior decision rendered by the Zoning Enforcement Officer, the Zoning Hearing Examiner, the Planning Director, the Planning Commission, the Board of Appeals, the Development Review Board, or Landmarks and Urban Conservation Commission upon which the appeal is based may ~~[-not-]~~ be unilaterally withdrawn, changed or modified by any of the above as they have lost jurisdiction to act on the matter.

Section 2. Section 14-16-4-4(B)(2) is amended to read as follows:

(2) The following persons ~~[-may be considered aggrieved and may-]~~ [+shall have the right to+] file appeals of city zoning decisions~~[-, being deemed to have a personal or pecuniary interest or property right adversely affected by the decision, which right or interest is more than merely nominal or remote-]~~:

(a) Where the decision appealed is a special exception, persons who were parties or could have been parties at the Zoning Hearing Examiner's hearing.

(b)

Any person may appeal declaratory rulings by the Zoning Enforcement Officer.

(c) In other cases, persons who own a property interest within 300 feet of the subject-site (excluding public right-of-way); and organized neighborhood associations (as provided in § 14-16-4-2(B)(2)(d)) if the boundaries of the association include any part of the subject-site or any land within 600 feet thereof (excluding public right-of-way).

[+(d) Any person who demonstrates a personal or pecuniary interest or property right adversely affected by the decision, which right or interest is more than merely nominal or remote.+]

Section 3. A new section 14 -16-4-4(B)(3) is added and subsequent provisions are renumbered accordingly:

[(3) In prosecuting or defending an appeal any person may be represented by an attorney, any other representative or may appear for him or herself. An attorney or other representative must have written authorization from the person being represented. Any attorney, other representative or person appearing for himself or herself must abide by orders of the appellate body and preserve appropriate decorum.+]

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 5. COMPILATION. This ordinance shall be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 6. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

